

## Environmental Protection Agency

## § 204.59

§204.52, such set will not constitute tampering.

(d) The provisions of this section are not intended to preclude any State or local jurisdiction from adopting and enforcing its own prohibitions against the removal or rendering inoperative of noise control systems on compressors subject to this part.

(Secs. 6 and 13, Noise Control Act, Pub. L. 92-574, 86 Stat. 1244 (42 U.S.C. 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 47 FR 57713, Dec. 28, 1982]

### § 204.58-3 Instructions for maintenance, use, and repair.

(a)(1) The manufacturer shall provide to the ultimate purchaser of each portable air compressor covered by this part written instructions for the proper maintenance, use, and repair of the compressor in order to provide reasonable assurance of the elimination or minimization of noise emission degradation throughout the life of the compressor.

(2) The purpose of the instructions is to inform purchasers and mechanics of those acts necessary to reasonably assure that degradation of noise emission levels is eliminated or minimized during the life of the compressor. Manufacturers should prepare the instructions with this purpose in mind. The instructions should be clear and, to the extent practicable, written in non-technical language.

(3) The instructions must not be used to secure an unfair competitive advantage. They should not restrict replacement equipment to original equipment or service to dealer service. Manufacturers who so restrict replacement equipment must make public any performance specifications on such equipment.

(b) For the purpose of encouraging proper maintenance, the manufacturer shall provide a record or log book which shall contain a performance schedule for all required noise emission control maintenance. Space shall be provided in this record book so that the purchaser can note what maintenance

was done, by whom, where and when.

(Secs. 6, 13, Pub. L. 92-574 (42 U.S.C. 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 47 FR 57713, Dec. 28, 1982]

### § 204.59 Recall of non-complying compressors.

(a) Pursuant to section 11(d)(1) of the Act, the Administrator may issue an order to the manufacturer to recall and repair or modify any compressor distributed in commerce not in compliance with this subpart.

(b) A recall order issued pursuant to this section shall be based upon a determination by the Administrator that compressors of a specified category or configuration have been distributed in commerce which do not conform to the regulations. Such determination may be based on:

(1) A technical analysis of the noise emission characteristics of the category or configuration in question; or

(2) Any other relevant information, including test data.

(c) For the purposes of this section, noise emissions may be measured by any test prescribed in §204.54 for testing prior to sale or any other test which has been demonstrated to correlate with the prescribed test procedure.

(d) Any such order shall be issued only after notice and an opportunity for a hearing in accordance with section 554 of Title 5 of the United States Code.

(e) All costs, including labor and parts, associated with the recall and repair or modification of non-complying compressors under this section shall be borne by the manufacturer.

(f) This section shall not limit the discretion of the Administrator to take any other actions which are authorized by the Act.

(Secs. 6, 11, Pub. L. 92-574 (42 U.S.C. 4910))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61456, Dec. 5, 1977]